

Remarks:

Applicant has carefully studied the final Examiner's Action mailed 9/09/2004, having a shortened statutory period for response set to expire 12/09/2004. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. This important patent application is therefore believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings that correspond to the centered headings employed by the Office, to ensure full response on the merits to each finding of the Office.

Claim Rejection – 35 U.S.C. § 112, First Paragraph

Applicant acknowledges the quotation of 35 U.S.C. § 112, first paragraph.

Claims 1-3 and 8-9 stand rejected under 35 U.S.C. § 112, first paragraph, because the specification does not disclose an elongated slot formed in the toe end of the novel prosthesis as recited in claim 1. As currently amended, independent claims 1 and 10 now recite that the elongate slot is formed in the upper member, that the elongate slot is substantially coincident with the longitudinal axis of the prosthetic foot, and that the elongate slot extends from an uppermost end of the heel end of the upper member to the inflection point. Accordingly, said amended claims 1 and 10 no longer recite that the elongated slot is formed in the toe end of the prosthesis.

The term "said heel end and in said toe end of" (and not just "and in said toe end of") is deleted from claims 1 and 10 as currently amended because the elongate slot is best described as extending from an uppermost end of the heel end of the upper member to the inflection point.

Double Patenting

Claims 1-3, 8-12, and 17-20 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 8-12, and 17-20 of U.S. application No. 10/248,890. This ground of rejection is met by the filing herewith of a Terminal Disclaimer To Obviate A Provisional Double Patenting Rejection Over A Pending "Reference Application."

Claims 1-3, 8-12, and 17-20 stand further rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 8-12, and 17-20 of

U.S. patent No. 6,702,859. This ground of rejection is met by the filing herewith of a Terminal Disclaimer To Obviate A Double Patenting Rejection Over A "Prior" Patent.

Conclusion

If a Notice of Allowance cannot be entered at this time for any reason, a telephone call to the undersigned at (727) 507-8558 is requested. Applicant thanks the Office for its careful examination of this important patent application.

Very respectfully,

SMITH & HOPEN

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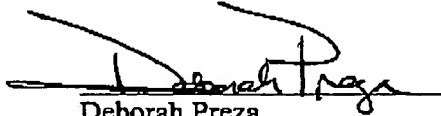
Dated: October 15, 2004

pc: Aldo A. Laghi, Ph.D.

CERTIFICATE OF FACSIMILE TRANSMISSION
(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment After Final Rejection, including Introductory Comments, Amendments to the Claims, and Remarks, is being transmitted by facsimile to the United States Patent and Trademark Office, Art Unit 3738, Attn: Mr. Alvin J. Stewart, (703) 872-9303, on October 15, 2004.

Dated: October 15, 2004


Deborah Preza